

Memo

To: **Montana Wheat & Barley Committee**

From: Terry Whiteside

Date: April 13, 2007

Re: **Transportation Report**



Rail Competition Bill Introduced in Senate – 6 of the 10 Original Co-Sponsor Have Strong Ag Ties – S. 953

S 953 is the new Rail Competition bill introduced by 10 original cosponsors in the Senate on March 21, 2007 called *The Railroad Competition and Service Improvement Act of 2007*. *Original cosponsors are: Senators Rockefeller, Craig, Dorgan, Vitter, Klobuchar, Tester, Landrieu, Crapo, Baucus, and Cantwell*. This bill will improve America's railroad system by ensuring increased rail competition and enabling rail customers to obtain more reliable service.

Senator Rockefeller (W VA) in his introduction comments stated, "This essential concept of capitalism is what our economy is based upon. Those ideas, plus promoting competition and protecting consumers, were prime motivating factors when Congress in 1980 passed the Staggers Act. The Staggers Act provided a government agency--now the Surface Transportation Board (STB)--with the ability to prevent monopoly abuses of those shippers left "captive" to just one railroad, and to make sure that the railroads in competitive situations were able to operate in such a way that they could be profitable. Somewhere along the way the part of the STB mandate calling on the agency to protect shippers, and by extension consumers, has been ignored, or at least subsumed into the STB's fervor to see the railroads profitable."

Senator Tester (MT) commenting on the bill, "'Right now folks who work the fields and businesses across Montana are held captive by high shipping rates," Tester said. "It's unfair and it's high time we make some changes to fix it."

"Currently the nation's railroad industry is run by only a few large companies. The monopolies result in unreliable delivery and high costs for farmers, businesses and consumers all a result of a lack of competition."

"The current system also leads to longer transit times and tight freight car supplies."

"America's freight rail system is broken. Competition has dried up," Tester said. "It's time to fix it fast. Too many people across this country are paying too high a price. The legislation that I introduced gets right to core of the problem."

Senator Vitter (LA) in his comments about the bill, "The lack of healthy competition in our national rail system is stifling rail customers like our Louisiana chemical industry and utility providers. The extreme prices these rail customers are charged and the service challenges they face have a direct impact on jobs and prices for consumers. We must reform our railroad system to foster more competition and provide relief to consumers," Vitter said."

"Government accountability reports have noted a lack of competition in the railroad industry and a lack of action by the Surface Transportation Board to ensure rail competition and protect rail customers from railroad market abuse.

"This bill is a major step forward in the effort to protect and grow jobs in Louisiana. Virtually every rail shipper - from chemicals to forest products to agriculture to utilities - has suffered because of excessive rail rates and spotty performance," said Dan Borne, president of the Louisiana Chemical Association. "We commend Senator Vitter for his leadership in the Senate fight to fix our problems."

"The STB, which is supposed to oversee rail pricing and practices, has proven to be ineffective for rail customers and very friendly to rail providers, most notably as their actions apply to rail customers having only one choice of rail providers. We thank Senator Vitter for standing up against these unfair monopoly practices and co-authoring this bill demanding that the STB do its job properly," added Terry Huval of Lafayette Utilities System.

Senator Dorgan (ND), a perennial leader on this issue, echoed the sentiment, "The fees charged by the STB are almost as outrageous as the price-gouging by the railroad," Dorgan said.

"In recent decades, because of mergers, we've ended up with just a few railroads that operate in a near monopoly condition with almost no regulation at all," said Dorgan. "That has to stop. Our bill will provide rail costs to customers with some clout and will force the Surface Transportation Board to wake up and start helping customers who are paying unfair rail rates."

Senator Craig (ID) also a leader on this bill, in strongly worded remarks emphasized the need for competition and this legislation, "As consumers, most of us enjoy choice

and competition in our shipping options. If I want to send a package to a friend, I can go to the post office, UPS, FedEx, and a number of other providers. Most railroad customers, though, don't have the same options - and their problem has a much larger scale. Without competition, you are subject to the whims of one provider. That drives up prices, which results in fewer jobs, higher prices, and a reduced ability to compete in a global marketplace. This bill will shift the balance in favor of market-based pricing and require that railroads justify their rates in states like Idaho."

Senator Cantwell (WA): "Unreliable, infrequent service and a lack of available rail cars can cause big problems for farmers who depend on rail to get wheat, potatoes, and other crops from the farm to the market," said Cantwell. "Improving rail competition where one railroad is dominant will lead to better prices and rail service for shippers of agriculture and forest product across our state. Helping our farmers move crops faster and more cost-effectively will get more Washington products to more markets and improve the local economy in our state's many agricultural communities."

"The Rail Competition Act will provide a stable source of transportation to all segments of the wheat industry as well as all industry," said Jerry Snyder, National Legislative Chairman of the Washington Association of Wheat Growers. "Many areas in our Northwest are held captive by one large railroad that will provide service only when necessary. This puts an extra burden on other forms of transportation. By allowing competition bidding for short line haulers on rail, this will alleviate the pressure our roads already bare. There are many small communities that relied on the rail for transportation of goods and services that no longer get that service. This bill may alleviate some of those problems and promote growth in our rural communities again."

What will the Senate bill do? The Senate legislation will:

- Ensure rail customer access to rail competition
- Ensure a workable rate challenge process at the STB for rail customers without access to transportation competition
- Ensure a proactive STB
- Clarify and enforce the railroads' obligation to serve their customers
- And provide for an arbitration process allowing carriers and agricultural rail customers the opportunity to work out their differences without extensive litigation

The railroads classic counter argument is that any change to the current monopoly driven system is 'reregulation.' That is a horse they have beat since 1980.

FACT: Under S953 – not a single rate or service practice that is deregulated today will become subject to regulation. Thus the deregulation argument has no clothes.

The Staggar Rail Act of 1980 was an act designed to free up the railroads to be able to become more financially secure but as the General Accounting Office in their recent report 09-74 stated it was an Act that sought balance – balancing the interests of financially secure railroads with the protection of rail customers from the effects of monopoly marketing power. The railroads are now financially secure but the balance that Congressional action in 1980 sought has not been effected. What this bipartisan Congressional folks are calling for is the restoration of balanced oversight of this very concentrated public interest industry.

**Chairman Oberstar (MN) and Congressman Baker (LA)
ready a similar Rail Competition bill in the House.**

Chairman Oberstar, a long time supporter of increased rail competition has placed a marker bill in the House Transportation & Infrastructure Committee log that while not exactly a mirror of the S. 953 is close. The only missing component that the Alliance for Rail Competition, many industry companies and agriculture believe is important is an arbitration process for resolving differences in a expeditious and economical way.

The Chairman is calling for all shippers to help get 75 original cosponsors for this bill and he will then introduce it and work it through his Committee.

Alliance for Rail Competition and Agricultural interests are continuing to work hard on cosponsors simultaneously calling on them to request that the Oberstar House marker bill include an arbitration piece similar to the Senate bill so both bills mirror each other.